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Directive 09-5: Motor Vehicles Purchased with a CARS Rebate

Introduction

The purpose of this Directive is to explain the Massachusetts sales/use tax treatment of an allowance rebate received by participating motor vehicle dealers pursuant to a recently enacted federal law, "Consumer Assistance to Recycle and Save Program," Title XIII of PL 111-32 (2009), 123 Stat. 1859. This program will be administered by the National Highway Traffic Safety Administration (NHTSA) and is called the "Car Allowance Rebate System" or "CARS" and is also known as "Cash for Clunkers".

Under the terms of the program, used vehicles with a combined fuel economy rating of 18 miles per gallon or less may qualify for a government rebate of either \$3,500 or \$4,500. The allowance rebate must be applied to offset the purchase price or lease price of a qualified new vehicle sold by a dealer that is registered in the CARS program. NSTSA has lists of qualifying new vehicles and will issue additional eligibility guidelines for the program. Generally, motor vehicle dealers must confirm with NHTSA if a trade-in vehicle qualifies for the allowance and that the new vehicle otherwise qualifies for the program and the dealer will then apply for reimbursement from NHTSA after the date of sale.

Issue: How is sales tax calculated on a motor vehicle purchased with a payment for the vehicle traded-in which is subsidized through the federal Car Allowance Rebate System?

Directive: Provided that the transaction otherwise qualifies, the payment for the vehicle traded-in may be excluded from the sales price subject to tax pursuant to G.L. c. 64H, § 26.

Discussion

Generally, the sales price subject to tax of tangible personal property sold is "the total amount paid by a purchaser to a vendor as consideration for a retail sale, valued in money or otherwise." G.L. c. 64H, § 1. An exception to this general rule is provided in G.L. c. 64H, § 26, which provides: "Where a trade-in of a motor vehicle or trailer is received by a dealer in such vehicles holding a valid vendor's registration, upon the sale of another motor vehicle or trailer to a consumer or user, the tax shall be imposed only on the difference between the sales price of the motor vehicle or trailer purchased and the amount allowed on the motor vehicle or trailer traded in on such purchase."

The Department's sales tax regulation on motor vehicles, 830 CMR 64H.25.1, defines "trade-in" as "the transfer of complete ownership of a motor vehicle, trailer, or other vehicle from a purchaser to a seller, but only if the transfer occurs at the time of and as consideration for a sale of a similar type of vehicle by the seller to the purchaser." Both the statute and regulation require that the trade-in occur "contemporaneously" with the purchase. See *Edward Accomando v. Commissioner of Revenue*, ATB Docket No. 173930 (1991).

Therefore, where a customer with a CARS qualified vehicle trades-in that vehicle on the purchase of a qualified new vehicle, the dealer may treat the amount of the CARS allowance rebate as a “trade-in” for purposes of calculating the sales tax and should report the allowance as a trade-in on Form RMV-1. Generally, the trade-in rules under the Department’s motor vehicle regulation, 830 CMR 64H.25.1(5)(c) will apply. In addition, dealers must maintain a copy of all documentation required by NSTSA including evidence of the proper disposal of the trade-in vehicle. Dealers must maintain normal business records showing the date of sale, vehicle(s) purchased, selling price and the amount of the CARS rebate in a manner sufficient to determine whether the proper amount of tax has been paid. These records must be kept for the amount of time specified in the Record Retention Regulation, 830 CMR 62C.25.1, and must be produced for review by the Department in the course of an audit of the dealer.

CARS allowance rebate trade-ins of motor vehicles may also be used as capitalized cost reductions on leased motor vehicles. See DOR Directive 97-4.

/s/Navjeet K. Bal
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